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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/944,103  | 09/04/2001  | Tsuguo Fukawa        | 21994/0028          | 1748             |
| 7590  | 04/13/2004  |                      | EXAMINER            |                  |
| Connolly Bove Lodge & Hutz LLP<br>Suite 800<br>1990 M Street, NW<br>Washington, DC 20036-3425 |             |                      | CHEN, TIANJIE       |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 2652                |                  |
| DATE MAILED: 04/13/2004   |             |                      |                     |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|------------------------------|------------------------|---------------------|--|
|                              | 09/944,103             | FUKAWA ET AL.       |  |
| Examiner                     | Art Unit               |                     |  |
| Tianjie Chen                 | 2652                   |                     |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 26 February 2004.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 11 and 12 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 11 and 12 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_ .

***Non-Final Rejection***

***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

However, one of applicant's claim for priority under 35 U.S.C. 119(a)-(d) is based upon an application filed in Japan on 09/01/2001. A claim for priority under 35 U.S.C. 119(a)-(d) cannot be based on said application, since the United States application was filed more than twelve months thereafter.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipate by Komiyama (US 5,121,275).

With regard to claim 11, Komiyama et al shows a tape cassette including: an upper half 111 (Fig. 4) and a lower half 109 combined with each other, wherein the tape cassette is utilized for an apparatus that is provided with a light emitting, section for detecting a tape end of a magnetic tape, and a light receiving section for detecting the tape end of the magnetic tape by receiving a detection light beam irradiated by 'the light emitting section and detects a tape end such that the detection light beam irradiated by the light emitting section reaches the light receiving section in a level of luminous energy more than a predetermined luminous energy level, wherein at least

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the upper half is made by a material having optical transparency (Column 4, lines 44-45), and wherein a hole 119 (Fig. 3, column 4, line 31) for a light path is formed on both sides of the tape cassette composed of the upper and lower halves so as to pass the detection light beam irradiated by the light emitting section to the light receiving section, and further wherein a protrusion 117d is formed on a upper outside of the hole for a light path so as to prevent undesired light other than the detection light beam in the predetermined luminous energy level from reaching the light receiving section (Column 4, lines 60-66).

With regard to claim 12, Komiyama further shows that one surface, which faces toward the lower half and is perpendicular to the side of the upper half, out of a plurality of surfaces constituting the protrusion is roughened (Column 2, lines 60-66).

### **Conclusion**

3. The prior art made of record in PTO-892 Form and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tianjie Chen whose telephone number is (703) 305-7499. The examiner can normally be reached on 8:00-4:30, Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa Nguyen can be reached on (703) 305-9687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tianjie Chen  
Primary Examiner  
Art Unit 2652  
04/09/2004